

REMARKS

Applicant, by the amendments presented above, has made a concerted effort to present claims which more clearly define over the prior art of record, and thus to place this case in condition for allowance.

Currently, claims 1-13 and 20-25 are pending. Claims 20-25 were added in this Amendment. Claims 14-19 were canceled without prejudice in this Amendment because they have been filed in a divisional application.

Allowable Subject Matter

Applicant acknowledges that the Examiner indicated that claims 4, 5 and 8-12 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections - 35 U.S.C. §103

Claims 1-3, 6, 7 and 13 were rejected under 35 U.S.C. §103 as being unpatentable over United States Patent No. 5,453,077 to Donnelly in view of United States Patent No. 5,817,003 to Moll et al. Reconsideration of the rejection is requested in view of the amendment to claim 1 and the remarks herein.

Claim 1 has been amended to specify that the at least one radiant heater is used when the infant is enclosed by the cover (such that an enclosed environment (incubator) is provided). Applicant submits that Donnelly discloses two configurations, a first configuration with the hood down in which it acts as an incubator where the radiant heater is not utilised, and second configuration with the hood in its uppermost position whereby the

system operates primarily with an air curtain to provide a heated air environment for the infant with the radiant heater providing any additional heat required. The cover or the portion of the cover as specified in the present claims is specifically designed such that it can be used simultaneously with the radiant heater being in use when the infant is enclosed by the cover, which Donnelly does not do.

The Examiner admits that Donnelly does not disclose a temperature sensor. In Donnelly, the method of heating is convective and therefore, there is no need for a skin temperature sensor so long as the temperature of the air is controlled. Because the radiant heater as defined by the claims of the present invention is disposed in close proximity to the infant because it is located in proximity with either the cover or the surface, it is essential that a temperature sensor is used for safety reasons. Accordingly, while the combination of Donnelly and Moll may suggest use of a radiant heater with a temperature sensor, the combination of Donnelly and Moll does not suggest using a radiant heater when the infant is enclosed by the cover to provide the heating of the infant as specified in amended claim 1. Accordingly, Applicant submits that amended claim 1 is allowable over the Examiner's rejection. Reconsideration and allowance of claim 1 is requested.

Claim 2, 3, 6, 7 and 13 are dependent upon amended claim 1 which Applicant submits is in condition for allowance. Reconsideration and allowance of claims 2, 3, 6, 7 and 13 is requested.

Newly-Presented Claims 20-25

Claims 20-25 are newly-presented and are directly to limitations similar to amended claim 1 and to humidified air to prevent insensible water loss.

In addition to the points noted above with regard to amended claim 1, Applicant submits that the combination of Donnelly and Moll does not suggest providing humidity to prevent insensible water loss as specified in new claim 20. Accordingly, Applicant submits that new claim 20 is allowable over the cited prior art. Entry, consideration and allowance is requested.

Claims 21-25 are dependent upon newly-presented claim 20 which Applicant submits is in condition for allowance. Entry, consideration and allowance of claims 21-25 is requested.

Information Disclosure Statement

Applicant has concurrently submitted an Information Disclosure Statement to cite the references from an Office Action dated February 26, 2003 which issued in corresponding patent application Serial No. 10/287,090, and a European Search Report dated January 23, 2003. Consideration of same is requested.

A Petition for a Three-Month Extension of Time is submitted concurrently herewith to extend the date for response up to and including June 3, 2003.

In view of the above Amendments and Remarks, Applicant respectfully submits that the claims of the application are allowable over the rejections of the Examiner. Should the Examiner have any questions regarding this Amendment, the Examiner is invited to contact one of the undersigned attorneys at (312) 704-1890.

Respectfully submitted,

Dated:

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